

Ref.

Def. Doc. #1927

Translated by
Defense Language Branch

Errata Sheet

Def. Doc. No.1927 Affidavit of ENOMOTO Juji.

Cross out 6 (which is the last paragraph) of p.p.10 and
insert the following:

6. I never heard of any course taught in any former Japanese
naval school or of any system of naval teaching designed to in-
culcate a spirit of totalitarianism, aggression, desire of war,
cruelty and hatred of potential enemies.

(a) Rules of Naval Warfare - Gunreikai No. 8 of 1914:

These rules contained important orders which had to be
adhered to by naval vessels and forces in wartime as a matter of course,
without awaiting the issuance of special orders. These rules had received

I M T F E

United State of America et al

- vs -

Araki, Sadao, et al

SWORN DEPOSITION

Deponent : Enomoto Juji

Having first duly sworn an oath as on attached sheet and in accordance with the procedure followed in my country I hereby depose as follows.

1. Beginning in October of 1915, I occupied a post in the Ministerial Secretariat of the Navy Department and was engaged in affairs pertaining to examination of laws and ordinances in general, as well as to international law. Around 1920 I assumed concurrently the duties of instructor in the Naval Staff College in charge of lectures on international law.

2. The former Japanese navy had many regulations relating to respect for international law, and special attention was directed toward securing their observance. That was natural enough since there were frequent occasions for our naval vessels to carry on negotiations with those of foreign Powers, as well as to visit foreign ports. But the fact that many of the officers who constituted the nucleus of the navy had been educated after the British fashion and had nurtured a custom of taking a conscientious attitude toward all contacts with foreign Powers would appear to have strengthened the tendency to emphasize the importance of observing international law.

3. The principal regulations of the former Japanese navy relating to international law were the following:

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These rules contained important orders which had to be adhered to by naval vessels and forces in wartime as a matter of course, without awaiting the issuance of special orders. These rules had received

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3. The principal regulations of the former Japanese navy relating to international law were the following:

(a) Rules of Naval Warfare - Gunreikai No. 8 of 1914:

These rules contained important orders which had to be adhered to by naval vessels and forces in wartime as a matter of course, without awaiting the issuance of special orders. These rules had received

the Imperial sanction. While these rules were called "Rules of Naval Warfare", their substance covered the whole scope of warfare, i.e. land, sea and air. Art. I provided: -"In wartime Japanese warships may, in pursuance of these Rules, other laws or treaty provision, effect capture at sea or other hostile action, as well as take all measure necessary for attaining the object of the war. And in respect of matters for which there are no relevant provision, the general principles of international law shall govern".

With regard to matters not clearly provided for by international law or by treaties, the rule to be observed was determined by the Navy Staff College. The "Outline of Wartime International Law" mentioned below, in which are set forth rules officially approved by the Navy Department and Naval General Staff authorities concerned, is of nature intended to serve to interpret and supplement the "Rules of Naval Warfare".

(b) Orders pertaining to Duties outside of Naval Vessels -

Kaigunshotatsu No. 85 of 1898:

These Orders were orders emanating from the Navy Minister, and which were required to be adhered to by the warships and forces of the former Japanese navy when engaged in liaison work in foreign waters or on the high seas in peacetime. And because of the importance of the substance of the Orders, they were discussed with the Minister of Foreign Affairs and passed upon by the Cabinet prior to enactment; and as in the case of the "Rules of Naval Warfare", they were published in the Official Gazette.

Art. 10 provided: - "A commandant must not permit his subordinates to offend the feeling of local officials and civilians, such as by conducting themselves rudely toward them, violating local laws and customs or ignoring their religion and morals".

Art. 37 provided: - "A commandant must report to the Navy Minister, through the competent official, all important events newly occurring in foreign countries and all essential matters disposed of in

accordance with the present Orders. But in urgent matters, a report shall be made direct to the Navy Minister simultaneously with the report to the competent official". It was thus ordered that the most careful attitude should be taken in the disposition of matters involving international negotiation; and methods best calculated to insure strict compliance with such orders were provided for.

(c) Rules pertaining to Duties of Warship Personnel -Kaigunshotatsu No. 101 of 1919:

These Rules, which are in the nature of Orders from the Navy Minister, laid down the criteria of conduct which warship personnel of the former Japanese navy were always required to observe, irrespective of time and place.

Art. 105 provided: - "The commander of a warship must exercise special care relative to matters of international import, and must dispose of them within the scope of orders, rules and treaties. In respect of any matter lying outside of such scope, he must obtain instructions from his superior commandant or directly from the navy minister.

(d) In addition to the above, there are rules governing treatment of prisoners of war, rules governing visits abroad, etc., but detailed explanation thereof will be dispensed with.

It goes without saying that all of the abovementioned regulations were enforced in the last war. Moreover, as the term "Japanese warships" was used in Art. 1 of the Rules of Naval Warfare, there was apprehension that some doubt might possibly arise as to whether or not the said Rules were applicable to other naval forces (i.e. other than warships). In order to remove all room for such doubt, therefore, special instructions were issued by the Navy Minister in 1942 (published in the Official Gazette) to the effect that, in the absence of a special order, the Rules of Naval Warfare applied mutatis mutandis to naval forces other than warships.

As regards the treatment of war prisoners, moreover, as the Japanese Government, which had not ratified the 1929 Convention, informed the Powers concerned of its intention to apply the said Convention mutatis mutandis, the former Japanese navy immediately notified all naval

forces of such fact and speedily printed the Convention in pamphlet form and distributed them.

4. Education in international law in the Japanese Navy was carried on along the following general lines:

(a) Naval Staff College.

Students who were being trained for future positions as staff officers were given a thorough course of training in international law. Although there were some variations in the number of hours devoted to this course, as it depended somewhat on the relating to the other items in the curriculum, no restriction was ever placed upon the time. The following instructors, in succession, had charge of this course: Nagao Ariga, Tadao Yamakawa, Sakutaro Tachi, Genroku Endo, Juji Enomoto.

(b) Naval Academy.

Cadets during their final year in the Academy were given a 20-hour course of lectures in international law; and in addition, just prior to their graduation, the instructor in international law at the Naval Staff College went from Tokyo for about three days to lecture on International Law, - questions by cadets being freely allowed during this brief course.

(c) Paymasters' College.

It was the usual practice for the instructor in international law at the Naval Staff College to give a 30 - hour course of lectures in international law to the cadets during their final year.

(d) Fleets.

When all the units of a fleet were concentrated in one spot, the instructor in international law at the Naval Staff College was usually despatched there to lecture to the fleet personnel on questions of international law in the light of cases which had actually arisen in the past, followed by questions and answers.

5. The principal books relating to international law published by the Japanese Navy in recent years were the following:

(a) "Outline of Wartime International Law".

(1) This volume, compiled as an interpretation of the Rules of Naval Warfare-Gunneikai No. 8 of 1914, sets forth the international rules of warfare, with necessary treaties appended. In addition to teaching

at the Naval Staff College, I gave brief courses at the Naval Paymasters' College and the Naval Academy, in which courses I lectured only on such parts of the above as I deemed essential.

The above book, reprinted several times, numbered 13,000 copies in all and were distributed to all naval units in the same way as the various navy regulations. Naval Officers desiring to own personal copies were supplied from the Ministerial Secretariat, Navy Department, at cost. Although there was no sale of this book outside of the Navy, copies were presented to the Foreign Office, Army and university professors upon request.

This book, as already stated, was prepared to serve as an interpretation of the Rules of Naval Warfare. But as Art. 1 of the said Rules provided: - "In respect of matters for which there are no relevant provisions, the general principles of international law shall govern", some portions of it, e.g. provisions relating to aerial warfare and chemical warfare, supplement the Rules of Naval Warfare. The substance of this book was closely scrutinized by all navy authorities concerned (including the Navy Minister and Vice-Minister) and received their official approval.

A concise pocket-edition of this book was also published of the various wartime laws was presented in tableform, so as to make it possible for provisions fitting any given cases to be easily found at any time and in any place, and thus to minimize the possibility of error.

Frequently the contents of this book were used verbatim in Orders, by such notations as "regarding the disposition of, of. Para. X of Outline of Wartime International Law".

(2) In the preparation of this book I placed special emphasis upon the importance of international law and strove to nurture respect for law.

P. 45 et seq.

Strict observance of international Law.

"International law, based on justice and humanity, has been formulated after many years of experience and trial; its object being to smooth the relations between nations, to promote their interests and to enable their peoples to legitimately develop their destined welfare.

"In recent years there has even developed a tendency not to censure those who question or even disregard the value of international law, and of wartime law in particular. While it must be admitted that it is not wholly without reason that such a tendency developed, history bears witness to the fact that no turbulent action can in the end contribute to the security and honor of a nation or to a people's welfare and happiness.

"No effort will be made here to elaborate on the origin of the general tendency to control affairs by force by rejecting actions that are fair, logical and in accordance with law.

"While it is not to be doubted that the tendency to make light of the war regulations was stimulated by the general tendency abovementioned, the principal direct cause would appear to have been the measures resorted to by the various belligerents in the World War. And as the belligerents, out of a desire to defend their own actions, exaggerated the actions of their enemies through propaganda, the world might have gotten the impression that the breaches of international law were even more rampant and gross than they really were.

"It is true that some of the measures taken by the belligerents in the World War went to extremes and that many of them were in contravention of international law and usage. But it is hardly reasonable to argue from that fact alone that international law has ceased to exist or been rendered of no value, or that the same things will be repeated in future wars. As a matter of fact, even in the World War, the belligerents when adopting a measure which might be considered contrary to international law and usage set forth reasonable grounds for their inability to abide by the regulations, thus making it clear that it was not a matter of total disregard of international law and usage.

"I cannot believe that international law which has reached its present stage through centuries of development can disappear in a day. Nor, in view of numerous instances where wars have been fought in strict accordance with international law, is it reasonable to take the view that international law will cease to exist or that, even if it does

not disappear completely, it will be deprived of its authority."

(3) With regard to the commencement of war, war of aggression is disavowed; and it is further pointed out that where unfortunately, a war becomes inevitable, states who are signatories to the Hague Convention III must give notice (i.e. of declaration of war) in advance. With regard to the interpretation of the Hague Convention III, reference is made to the United States "Rules of Land Warfare" 1914, Chapt. II (2)

P. 3 et seq.

"Wars must be defensive; those fought with the object of aggression are generally censured. In the settlement of disputes between nations each nation should first choose peaceful means, making effort to avoid resort to war. But it goes without saying that there may be nations which go to war to preserve their independence or to maintain their existence, and that nations are entitled to go to war on the ground of a gross insult to their honor. Such wars may be termed just wars".

"A nation, however great and strong,

Will be ruined if it becomes militaristic;

However peaceful the world,

Its security will be imperilled,

If it neglects the arts of War".

(Chinese proverb).

P. 6.

"There is no rule governing the question as to the time that should elapse between the declaration of war and the commencement of hostilities. Consequently if hostilities are opened immediately after the communication of the declaration of war".

(4) With regard to the treatment of war prisoners, it is stated in the book:

When a person possessing a certain status is captured by the enemy he must be treated as a war prisoner; and the idea is widely prevalent that he must of course not be mistreated, and aside from imposing such restraint as may be necessary, he must be accorded the same treatment as an officer or soldier of the country which has taken him prisoner. Such, in fact, is the purport of the Hague Rules of Land Warfare. Even enemy officers and men, since they are discharging their highest duty to their country for which they are prepared to give their lives, should be held in high esteem" (cf. P. 324 et seq.)

(5) The passage dealing with submarines contains the following:

(5) The passage dealing with submarines contains the following:

"Since submarines are but one category of war vessels, it must be operated on the same basis as other kinds of war vessels (surface vessels); and no exception can be recognized for them as regards the observance of war regulations. To be sure, the abuse of belligerent's rights by submarines in the World War created many problems, and led to a demand for special rules to regulate the actions of submarines. At the Washington Disarmament Conference a treaty governing submarines and poison gas was signed but did not come into effect because of the failure of France and Italy to ratify it. At the London Disarmament Conference of 1930, however, a provision governing restrictions on the use of submarines was inserted in the treaty and upon its ratification by Japan, the United States and Great Britain, came into force on 21 December, 1930. The above provision of the London Treaty remains in effect in perpetuity even after the said Treaty shall have lapsed" (cf. P. 77 et seq.)

"Before destroying an enemy ship, all persons on board must first be moved to a place of safety. As to what constitutes a place of safety is a question of fact. Where persons on board have been transferred to small craft, there may be cases where such craft cannot be considered as places of safety if the transfer took place on the high seas; and the same may be true even where the transfer to small craft took place close to land, if the weather conditions were bad at the time" (cf. P. 212).

(6) On the subject of aerial warfare, the Hague Rules of Aerial Warfare (1923) are incorporated in this volume almost in their entirety. It is pointed out therein that bombing must be confined exclusively to military objectives in the narrowest sense of the word, and that bombing for the purpose of terrorizing civilian population or for the purpose of destroying objects having no military character or of injuring non-combatants is prohibited (cf. P. 271 et seq.).

Since no decision was made at the 1923 Conference concerning the visit and search of vessels by aircraft, the following special view was set forth:

Whether or not aircraft are entitled to exercise the right of visit and search of vessels by the same method as that employed by warships. About the only case where visit and search by aircraft might be contemplated is where, upon discovering a vessel at sea, an aircraft orders such vessel to proceed to a certain port without inquiring as to its character and takes suitable measures upon its arrival at such port. But if such vessel, having been ordered to a certain port without having been visited and search at sea and irrespective of whether or not it was subject to suspicion, refuses to comply with the order, intimidation by

Coming would not only be contrary to international usage by so fraught with danger and evil that it cannot be countenanced (P. 284).

(7) The right to wage chemical warfare is strongly denied, it being pointed out that chemical warfare should be avoided as much as possible even as a retaliatory measure against the enemy's chemical warfare.

P. 315 and 316

"There is the question as to whether the prohibition on chemical warfare should be made absolute or reciprocal. The view approved under the General Rules of War is that reciprocal observance should be the general rule, but that in view of the special character of this form of warfare, the prohibition should be made absolute, i.e. that a belligerent power should not recourse to chemical warfare irrespective of the attitude of its adversary. That applies with particular force to bacteriological warfare".

(8) As in the case of chemical warfare, the right to wage incendiary warfare is denied.

P. 311:

"The use of incendiary material, irrespective of whether it be in the form of incendiary bombs, shells, arrows, etc., constitutes a special menace to the civilian population; is particularly effective to destroy centers of urban areas and ordinary buildings; and is effective to spread fire in areas where destruction has been wrought by ordinary shelling. Incendiary weapons, moreover, are most likely to be employed for the purpose of increasing the feeling of terror resulting from the use of explosive projectiles; and that is especially true in the case of their use by aircraft. There may even be cases where incendiary weapons will cause greater destruction to property and human lives than poison gas. It is therefore only proper that such destructive weapons and means of warfare should be treated in the same way as poison gas".

(b) Addendum to Outline of Wartime International Law.

This was distributed to the various naval vessels and forces after they were notified of the fact of the Japanese Government having informed the Powers concerned that she would apply mutatis mutandis the 1929 Convention relating to treatment of prisoners of war. Its substance was concerned with revision of parts of the said Convention and of the Rules of Naval Warfare.

(c) Explanation of Orders pertaining to Duties outside of Naval Vessels.

This book contained interpretations of the Orders pertaining to Duties outside of Naval Vessels abovementioned, and constituted a companion volume to the "Outline of Wartime International Law", with it was

identical in nature.

(d) Laws of the Various Nations relating to Naval Warfare.

In these volumes are collected important articles relating to naval warfare regulations, diplomatic documents and internal politics of national import of the various Powers made public since the commencement of World War II, i.e. since September 1939. The purpose for which these volumes were compiled was to enable officers of the Japanese Navy to obtain accurate understanding of the policies and movements in all countries of the world, and to have them serve the officers as reference material in connection with the performance of their duties.

The materials were collected principally from official gazettes of the various Powers and important newspaper articles, - special importance being attached, in the latter case, to articles in "New York Times" and "London Times".

In the selection of the materials, articles were incorporated in their entirety whenever practicable in the interest of accuracy and fairness; and in the case of newspaper articles the original headlines were used in the belief that they would serve to give some idea of the general atmosphere of the time.

This set consists of four Books, each Book being divided into three volumes (hence the set numbers 12 volumes in all). It was planned to publish Book V also, but continuation of this work became difficult owing to loss by fire of a part of the MSS and the loss of printing facilities from the air-raids.

6. Having attended numerous international conferences I fully recognized the necessity of international conciliation. I felt also that since there were many occasions where naval vessels had to carry on negotiations as to foreign affairs directly, it was important for the nation that our naval personnel should obey international laws and usages and in order to carry out their duties smoothly. It was with such ideas in mind that I pursued my work of instruction, in the course of which I referred to the abovementioned books published by the Japanese Navy, as well as to the works of leading scholars of other countries and orders of the armies and navies of the various countries.

DEF. DOC. # 1927

On this 20 day of May, 1947.

At Tokyo

DEPONENT Enomoto Juji (seal)

I, TAKIGAWA, Masaiiro hereby certify that the above statement was sworn by the Deponent, who affixed his signature and seal thereto in the presence of this Witness.

On the same date

At Tokyo

Witness: (signed) TAKIGAWA, Masaiiro (seal)

OATH

In accordance with my conscience I swear to tell the whole truth withholding nothing and adding nothing.

Enomoto Juji (seal)

DefD 0001927

極東國際軍事裁判所

亞米利加合衆國其他

對

荒木 貞夫其他

宣誓供述審

供述者

東京都澁谷區松濤町五番地

根本重治

明治二十三年一月十六日生

自分係我國ニ行ハルル方式ニ從ヒ先ヅ別紙ノ通り宣誓ヲ爲シタル上次ノ如ク供述致シマス

一 私ハ一九一五年（大正四年）十月カラ元日本海軍省大臣官房ニ勤務シ
 一般法令審査事務ノ外國法規則係事務ニ關與シ又一九三〇年（昭和
 五年）頃カラ海軍大學校教官ヲ兼務シ同校ノ國際法ノ講義ヲ擔當シマ
 シタ。

ニ 元日本海軍ニハ國際法遵守ニ關スル法規ガ多數アリマシテ而シテ其ノ
 遵守勵行ニツイテハ特別ノ注意ガ勤ハレマシタ、之レハ海軍艦船ガ外
 國艦船ト交渉シ又外國港灣ヲ訪問スル機會ナドガ多イノデ當然ノコト
 デアリマスガ元日本海軍ノ中心トナツタ人々ガ英國流ニ教育セラレ外
 國トノ交際ヲ慎重ニスル習慣ガアツタコトモ一層其ノ傾向ヲ大ニシタ
 モノト思ハレマス

三 元日本海軍ニ於ケル國際法ニ關スル規則ノ主ナルモノハ左ノ通りデア
 リマス

イ 大正三年（一九一四年）軍令海第八號海軍法規
 コノ海軍法規ハ戰時ニハ特別ノ命令ヲ待タズ當然海軍艦船及部隊ノ進
 守スベキ重要ナ命令デアリマシテ天皇ノ裁可ヲ得タモノデアリマス

而シテ其ノ名稱ハ「海戰法規」トナツテ居リマスガ其ノ内容ハ有ラユル戰爭即チ陸・海・空ノスベテニ亘ルモノデアリマス

其ノ第一條ニハ「帝國軍艦ハ戰時ニ於テ本令其ノ他ノ法令及條約ノ規定ニ依リ海上捕獲其ノ他ノ敵對行爲及戰爭ノ目的ヲ達スルニ必要ナル一切ノ措置ヲ爲スコトヲ得、其ノ規定ナキ事項ニ付テハ國際法ノ原則ニ準據スベシ」ト規定シテアリマス

而シテ國際條約及此ノ海戰法規ニ明定シテナイ事項ニツイテハ海軍大學校ニ於ケル研究等ヲ參考トシテ海軍省ニ於テ決定シマシタ
後記ノ戰時國際法規綱要ハ海軍省及軍令部ノ關係各官ノ公認ノ準則ヲ記載シタモノデアルカラ右海戰法規解釋書デアルト共ニ夫レヲ補足スル性質ヲ持ツテ居マシタ。

(ロ)明治三十一年(一八九八年)海軍省達第八五號軍艦外務令
コノ軍艦外務令ハ元日本海軍艦船部隊ガ戰時以外ノ時ニ於テ外國領海又ハ公海ニ在ル場合ニ渉外事項ニ關シ進行スベキ海軍大臣ノ命令デアリマス、然シ其ノ内容ハ重要ナ事項ヲ含ンデ居リマスノデ之レガ制定

ノ際ハ先ヅ外務大臣ニ協議シ閣議ヲ經テ居リマス、本令ハ海陸法規ト
同様官報デ公示セラレマシタ。

其ノ第十條ニハ「指揮官ハ其ノ部下ヲシテ其ノ他ノ官吏又ハ人民ニ對
シ粗暴ノ舉動アリシムベカラズ、又其ノ法規慣例ニ違背シ宗教、風俗
ヲ蔑視スル等地方官民ノ感情ヲ傷フガ如キ行爲アラシムベカラズ」ト
規定シ又第三十七條ニハ「指揮官ハ外國ニ生ジタル重大ナル新事件及
本令ニ據リ處理セル必要ナル事項ハ悉ク之ヲ所管長官ヲ經テ海軍大臣
ニ報告スベシ、但シ至急ヲ要スル件ハ所管長官ニ報告スルト同時ニ直
ニ海軍大臣ニ報告スベシ」ト規定シ涉外事項ノ處理ニハ最モ慎重ナ態
度ヲ以テ臨ム業ニ命ジ又之レガ命令ノ遵守ヲ確實ニスル方法ヲ講ジテ
アリマス

(ハ)大正八年(一九一九)海軍省達第一〇一號艦船職員服務規程
コノ艦船職員服務規程ハ平時時ヲ問ハズ又所在地ノ如何ヲ問ハズ元日
本海軍艦船ノ職員ノ常ニ遵行スベキ規程ヲ規定シテアル海軍大臣ノ命
令デアリマス

其ノ第百五條ニハ「艦長ハ國際上ノ事件ニ關シテハ特ニ慎重ヲ旨トシ
必ズ命令規則及條約ノ範圍外ニ涉ルモノアルトキハ上級指揮官又ハ直
接海軍大臣指令ヲ請フベシ」ト規定シテアリマス
(二)尙此ノ外ニ停泊取扱ニ關スル規則・訪問規則等ガアリマスガ略シマ
ス

今次戰爭ニ於テモ勿論之等ノ規則ハ凡テ勵行サレタモノデアリマス、
尙海戰法規第一條ニハ「帝國軍艦ハ……」ト規定シテアリマス
關係上萬一ニモ他ノ部隊等ニ適用アリヤ否ヤノ疑ヲ生ズル様ナコトガ
アツタ因ルノデ特ニ昭和十七年(一九四二年)海軍大臣達ハ官報ニ公
示ス一チ以テ海戰法規第一條ニハ「帝國軍艦ハ……」ト規定シテ
アリマス關係上萬一ニモ他ノ部隊等ニ適用アリヤ否ヤノ疑ヲ生ズル様
ナコトガアツタ因ルノデ特ニ昭和十七年(一九四二年)海軍大臣達ハ
官報ニ公示ス一チ以テ海戰法規ハ特令ナキ限り海軍部隊ニ之ヲ準用ス
ル旨ヲ明ニシタ程デアリマス。

尙日本政府ガ未批准ノ停泊ノ取扱ニ關スル一九二九年條約ヲ今次戰爭

ニ於テ準用スル旨ヲ關係國政府ニ申送りマシタノデ元日本海軍ハ直チニ其ノ旨ヲ各艦隊部隊ニ通知スルノ方法ヲ執リ又急遽右條約文ヲ小冊子ニ印刷シ配布シマシタ。

元日本海軍ニ於ケル國際法ノ教育ハ概ネ左ノ如クニ行ハレマシタ

(イ) 海軍大學校

將來參謀官トナルベキ學生ニハ國際法ニ付テ深イ研究ヲ爲サシノマシタ他ノ作業ノ狀況ニ依リ多少ノ變化ハアリマシタガ時間ニハ余リ制限チ置カナカツタノデアリマス

指導官ニハ有賀長雄、山川靖夫、立作太郎、遠藤源六、根本重治等ガ任ゼラレマシタ

ロ) 海軍兵學校

最高學年生徒ニ對シ、約二十時間國際法ニ關スル講義ヲ行ヒ、更ニ卒業直前東京カラ海軍大學校ノ國際法指導官チ出張セシメ三日間位イノ豫定ヲ以テ國際法ニ關スル講演ヲ爲サシメ同時ニ自由ニ質疑應答ヲ行ハシメルノガ例デアリマシタ

(ハ) 海軍經理學校等

海軍大學校ノ國際法指導官ヲ兼務教官トシテ最高學年生徒ニ對シ約二十時間國際法ノ講義ヲ行ハシメルノガ例デアリマシタ

(ニ) 陸 隊

全體隊集合ノ時期等作業ノ都合ヲ見テ海軍大學校國際法指導官ヲ派遣シ國際法ニ關スル諸問題ヲ實際起ツタ事件ニツキ演述セシメ質疑ニ應ゼシムルノガ例デアリマシタ

元日本海軍ニ於テ最近發行シタ圖書ノ中國國際法ニ關係アルモノノ主ナルモノハ左ノ通りデアリマス

(イ) 戰時國際法規綱要

(一) 此書物ハ一九一四年軍令海第八號海戰法規ノ註釋書トシテ作製セラレ戰時國際法規慣例ヲ記述シタルモノデ之レニハ必要ナル條約ヲ附屬シテアリマス、私ハ海軍大學ノ外海軍經理學校・海軍兵學校等ニ於テモ小時間宛講義ヲシマシタガ此ノ場合ニハ本書中必要ト認メラルル部分ノミヲ口述シマシタ。

本書ハ致回ニ直リ合計約壹萬部印刷シ廣ク海軍艦船部隊ニ贈規
則書ト同様ノ手續ヲ以テ配布シ又所有ヲ希望スル海軍軍人ニハ海軍
大臣官房ヨリ實費ヲ以テ分與シマシタ

本書ハ海軍部外ニハ販賣シナカッタガ要求ニ應ジ外務省、陸軍大學
教授等ニハ贈與シマシタ、又外國人ニモ希望ニ依リ贈與シマシタ、
本書ハ前記ノ海軍法規ノ註釋デアリマスガ海軍法規第一條中ニ「
海軍ニ關スル事項ハ海軍法規ノ原則ニ準據スベシ」ト規定シテアリ
マスノデ或ル部分ニ於テハ海軍法規ノ補足ヲナスモノデアリマス
空軍化學戰等ニ關スル部分ハ夫レニ相當致シマス、而シテ本書ノ内
容ハ海軍關係諸官（大臣次官ヲ含ム）ノ嚴密ナ審査ヲ經其ノ公ノ承
認ヲ得タモノデアリマス、本書ニハ附屬物トシテ携帶ニ便利ナ小冊
子ガツイテ居リマス、スベテノ戰時法規ノ内容チ一覽表ニ表示シタ
モ、關係者ガ何時デモ如何ナル場所デモ容易ニ關係規則ヲ發見シ得
ル如クシ萬一ニモ其ノ行動ニ過誤ナカラシメシコトヲ期シタモノデ
アリマス

本書ノ内容ハ屢々其ノ體訓令トシテ用ヒラレマシタ、假令バ「〇〇
ノ處理ニ付テハ戰時國際法規綱要第何頁ヲ見ヨ」ト言フガ如クデア
リマス

(二) 本書作製ニ方リテハ特ニ國際法ヲ重ンジ憲法精神ヲ涵養スベキコト
ヲ説クコトニ力ヲ注ギマシタ

(参照) 四五頁以下

國際法ノ遵守

「國際法ハ正義ニ立脚シ人道ニ基キ多年ノ經驗試練ヲ經テ成リタル
モノニシテ各口ノ關係ヲ圓滿ニシ夫レ等ノ權益ヲ伸展シ各國民ヲシ
テ正當ニ其ノ生命ヲ開拓セシメンコトヲ目的トスルモノナリ
近時國際法特ニ戰爭法規ノ價值ヲ擧ヒ甚シキハ之ヲ無視スルコトハ
敢テ非議セラルベキ行爲ニ非ズト爲スガ如キ風潮サヘ生ジタリ斯ル
風潮ヲ馴致スルニ至リタルニ付テハ相當理由ノ存スルコトハ之ヲ認
メザルヲ得ザルモ不軌ノ行動ハ宛然ニ於テ國ノ安全名譽ヲ保全シ國
民ノ幸福ヲ増進スル所以ニ非ザルコトハ歴史ノ實證スル所ナリ

一般ニ公正合理違法ノ行動ヲ排シ力ヲ以テ事ヲ制セントスルノ風潮
ノ生ジタル源由ニ付テハ茲ニ述ベズ

戦争法規輕視ノ風潮モ右一般風潮ニ誘ハレタルコトハ疑ヒナキ所ナ
ルモ最大直接ノ原因ハ世界大戦ニ於ケル交戦各國ノ執リタル措置ニ在
在リト思ハル加之交戦國互ニ各自ノ行動ヲ辯護セントスル念慮ニ因
ラレ對手國ノ行動ヲ過大ニ宣傳シタルニ依リ世人チシテ實際以上ニ
國際法侵犯ノ事ヲ深刻ニ印象セシムルニ至レル節モアリ

實際大戦中交戦國ノ執リタル措置ハ一端ニ走り從來ノ國際法規慣例
ニ反スルコト多カリシハ事實ナルモ其ノ一事ヲ以テ國際法ハ消滅セ
リ又ハ國際法ハ無價值ノモノニシテ將來ノ戦争ニ於テモ然ルベシト
推斷スルハ適當ニ非ズ現ニ大戦中モ交戦國ハ國際法規慣例ニ反スト
思ハルル措置ヲ執ル場合ニハ必ズ相當ノ理由ヲ附シテ正規ノ方法ニ
依リ應キ旨ヲ辨明シ決シテ國際法規慣例ヲ無視スルモノニ非ザルコ
トヲ示セリ

過去數世紀ニ亘リテ漸次發達シ來リタル國際法ガ一朝ニシテ消滅ス

ベシトハ思ハレズ又實際嚴正ニ國際法規ニ準據シテ戰爭ガ遂行セラレタル幾多ノ例ノ存スルコトニ鑑ミルモ將來國際法ハ消滅スベク假ニ消滅セズトモ權威ナキモノトシテ存スルニ過ギズト言フハ正シキ見解ニ非ズ

(三) 戰爭開始ニ付テハ侵略戰ヲ否認シ不幸ニシテ戰爭ヲ爲サザルベカラザル場合ニハ海牙第三條約締約國間ニ於テハ事前通告ヲ爲スベキ旨ヲ記述シテ居リマス海牙第三條約ノ解釋ニ付テハ「米國際戰法規慣例場區

(Rules of Land Warfare)

第二章 (二〇)ヲモ參照シタノデス

參照) 三頁以下

「戰爭ハ自衛上ノモノタルベク侵略ヲ目的トスルモノハ一般ニ非難セラルル所ナリ、又各國ハ紛議ノ解決ニ方リテハ先ヅ平和的手段ヲ選ビ

戰爭ニ訴フルコトハ能フ限り之ガ回避ニ努ムベキモノトス
國家ガソノ獨立ヲ保チ生存ヲ維持スル爲ニ戰爭ニ訴フルコトアルベキハ當然ノ義ナルガ又ソノ重大名譽ヲ毀損セラレタル場合ニモ之ヲ戰爭

ノ原因ト爲スコトヲ得ベキナリ、之等ハ凡テ正戦トモ認ビ得ベシ
國雖大 好戦必亡 天下雖安 忘戦必危 (支那ノ格言)

(参照) 六頁

開戦通告ト敵對行爲ノ開始トノ間ニ幾何ノ經過期間ヲ置クベキカニ付
テハ違則ナシ故ニ開戦通告ノ到達ト殆ンド同時ニ敵對行爲ヲ開始スル
モ條約上ハ違反行爲トハ認メ難シ

(四) 俘虜ノ取扱ニ付テハ「一定資格ヲ有スルモノガ敵ニ捕ヘラレタル場合ニハ俘虜トシテ取扱ハルベク之ニ是待ヲ加フベカラザルハ勿論必更トスル拘束ヲ加フル以外ニ於テハ其ノ構内ニ收メタル國ノ官人ト同様ノ待遇ヲ與フベシトスル觀念廣ク行ハレ海牙陸戰條規ハ全ク右趣旨ニ基キテ規定セラレタリ、敵將兵ト雖モ必任義務ニ服シ其ノ國家ニ身命ヲ抛タンコトヲ期セルモノナレバ寧口情ニ於テハ之ヲ敬愛スベキナリ」ト記述シテアリマス。(三二四頁以下参照)

(五) 潜水艦ニ關スル記事左ノ如キ記述ガアリマス

「潜水艦モ艦艇ノ一種ニ外ナラザルヲ以テ他ノ艦艇(水上艦艇)ト同一基礎ノ上ニ於テ行動スベキモノニシテ戰争法規ノ遵守ニ付テモ別段ノ例外ヲ認メ得ザルモノトス、尤モ歐洲大戰中潜水艦ガ交戰ヲ濫用シタル結果幾多ノ問題ヲ惹起シ潜水艦ノ行動ヲ規律スル法則ヲ設クベシトノ議起リ華府會議ニ於テ潜水艦モ瓦斯ニ關スル條約ヲ締結シタルモ佛伊ノ批准ヲ得ルニ至ラズ効力ヲ發生セザリシガ一九三〇年「ロンドン」海軍條約中ニ再ビ潜水艦使用制限ニ關スル規定ヲ設ケ日米英ノ

批准寄託ニ依リ昭和五年十二月三十一日効力ヲ發生スルニ至レリ
右條約ノ規定ハ「ロンドン」條約失効後ト雖モ無期限ニ効力ヲ有スル
モノトス

(七七頁以下参照)

「敵船舶ヲ破壊スルニハ豫メ該船舶内ニ在ル一切ノ人員ヲ安全ノ場所
ニ移スコトヲ要ス如何ナル場合ヲ以テ安全ノ場所ニ移シタルモノト見
ルベキカハ事實問題ナリトス、短艇ニ移乗セシムルコトハ陸地ヨリ著
シク遠隔ノ洋上ニ於テハ安全ノ場所ト見ルコトヲ得ザル場合アルベク
又陸地ニ接近スル海上ナリト雖モ當時ノ海象如何ニ依リテハ之亦安全
ノ場所ト看做シ得ザルコトアルベシ」(二一二頁)

(六) 空戦ニ關シテハ一九二三年海牙空戦法規案ヲ殆ンド其ノ條採用シ爆撃
ハ散モ狹義ノ軍事的目的ニ限り之ニ對シテ行フベク單ニ普通人民ヲ威
嚇シ軍事の性質ヲ有セザル物件ヲ破壊シ非戦闘員ヲ損傷スル目的ヲ以
テ爆撃ハ不可ナル旨ヲ記述シテアリマス

(二七一頁以下) 航空機ノ船舶ニ對スル臨檢搜索ハ一九二三年ノ會議

デ決定シナカッタノデ此ノ點ニ關シテハ特別ノ見解ヲ附シテアリマス
即チ左ノ如クデアリマス
航空機ガ船舶ニ對シテ臨檢搜索等ノ權利ヲ行使シ得ルヤ否ヤハ全ク未
決ノ問題ナリ

軍艦ガ臨檢搜索等ヲ行フ方法ヲ以テシテハ航空機ガ之ヲ行フ方法ト同
一ノ方法ヲ以テシテハ航空機ガ之ヲ行フコト不可能ナルコトハ殆ンド
明瞭ナリ航空機ガ臨檢搜索等ヲ爲シ得ベシト想像シ得ル唯一ノ方法ハ
洋中ニ於テ艦船ヲ發見シタル場合其ノ性質ヲ調査スルコトナク直ニ一
定港灣ニ進行スベキコトヲ命ジ右港灣ニ到着後適當ノ處置ヲ爲スニ在
ルベキ所洋中ニ於テ臨檢ヲ爲サズ嫌疑ノ有無ニ拘ラズ一定ノ場所ニ進
航ヲ命ジ之ヲ拒ムモノニ對シ爆發ヲ以テ脅カスコトハ從來ノ國際慣例
ニ反スルノミナラズ各種ノ弊害ハ危險アリテ遠ニ同意シ難キ所ナリ

(二八四頁)

七) 化學戰ニ關シテハ之ヲ強ク否定シ敵ノ化學戰ニ對スル復仇手段トシテ
モ能フ限リ之ヲ辭クベキコトヲ記述シテアリマス

(參照)三一五・三一六頁

禁止ヲ相互的トスベキヤ絶對的トスベキヤノ問題アリ、一般戰爭法規慣例ハ相互的ニ遵守スベキヲ原則トスベキモ化學戰等ノ特異性ニ鑑ミ之ヲ絶對的即チ對手國ノ態度如何ニ拘ラズ交戰國ハ化學戰等ニ訴フベカラズトスルヲ定説トス

特ニ細菌戰ニ於テ然リ

ハ燒夷戰ニ關シテモ化學戰ト同様之レヲ否定シテ居リマス

(參照)三一頁

爆彈ノ砲彈火箭等ト如何ナル方法ニ依ルヲ問ハズ燃燒性ノ物資ヲ使用スルコトハ特ニ市民ヲ脅威スルモノニシテ都市ノ中心及一般建築物ヲ破壊スルニ極メテ有效ニシテ又普通砲彈等ニ依リテ破壊セラレタル場所ニ對シ燒夷兵器ハ火災ヲ擴大セシムルニ與リテ力アリ、又燒夷兵器ハ爆發性投射物ニ依リ生ズベキ效果ニ對シ更ニ恐怖心ヲ増大セシムル爲使用セラルベク右ハ航空機ニ依リテ行ハルル場合ニ於テ特ニ甚シキモノアリ、人命ニ危害ヲ加フルニ止マラズ家財ヲ毀損スル點ニ於テ甚

瓦斯ニモ増シテ慘害ヲ醸ス場合アルベシ、從ツテ右ノ如キ性質ノ兵器
及戰爭方法ハ之ヲ毒物等ト同様ニ取扱フコト至當ナリトス、（所謂不
必要ナル器ヲ醸スモノナリ）

四 戰時國際法綱要追加

本書ハ停戰ノ待遇ニ關スル一九二九年ノ條約ヲ準用スル旨ヲ日本政府
ガ關係國ニ通告シタ際其ノ旨ヲ各艦船部隊ニ通知シ引續キ配布セラレ
タモノデアリマス其ノ内容ハ右條約ト海戰法規ノ一經修正ニ關スルモ
ノデアリマス

ハ 宣戰外務令解説

本書ハ上述ノ宣戰外務令ヲ解釋シタルモノデアツテ戰時國際法規綱要
ノ姉妹篇ヲ爲スモノデアリ其ノ性質ハ戰時國際法規綱要ト同一デアリ
マス又本書ノ作成配布方法等ハ全ク戰時國際法規綱要ト同一デアリマ
ス

ニ 各國海戰關係法令

本書ハ今次大戰開始以來即チ千九百三十九年九月以來發表セラレタル

各國ノ海戰關係法令外交文書、内政重要事項等ヲ集收シタモノデアリマス

本書作成ノ目的ハ正シク世界各國ノ政策動向等ヲ帝國海軍士官ニ了解セシムルト同時ニ執務上ノ參考ニ資セントスルニ在リマシタ

集收資料ハ主トシテ各國官報及重要新聞記事ニ依リマシタ、其ノ中ニ「ニユーヨーク、タイムス」及「ロンドン、タイムス」ハ私ノ最も重

視シタ所デアリマス

資料ノ選擇ニ方リテハ公正ヲ期スル爲出來得ル限り其ノ全文ヲ取リ新聞ノ表題ノ如キモ努メテ其ノ備存置シマシタ。之レ其ノ當時ニ於ケル

帝國氣ヲ知ルニ便ナリト思考シタカラデアリマス

作成完了シタノハ第四輯（十二冊）迄ニシテ第五輯以下ハ印刷所ノ空襲ニ依ル混雜一部原稿ノ焼失等ニ依リ作成ノ續行困難ナル情況ニ在リマス

大私ハ國際會議ニモ屢々出席シ國際問題ノ必要ナコトヲ深く認識シ又一万海軍艦船ガ直接渉外事項ニ關係スル機會ガ多イノデ我海軍ニ於テハ

國際法慣例ヲ尊重シ圖滑ニ其ノ仕テヲ遂行スルコトガ帝國ノ爲大切ナルコト考ヘテ居タノデ此ノ趣旨ノ下ニ教授致シマシタ此ノ教授ニ際シテハ各國ノ著名學者ノ著書、各國陸海軍訓令等ヲ參考トシマシタガ元日本海軍ニ於テ發行シタ前號ノ圖書ヲ教授材料トシマシタ

昭和二十二年（一九四七年）五月二十日於東京

供 述 者 榎 本 重 治

右ハ當立會人ノ面前ニテ宣稱シ且ツ署名捺印シタルコトヲ證明

シマス

同 日 於 東 京

立會人 瀧 川 政 次 郎

Def Doc No. 1927

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察
フ

良心ニ従ヒ眞實ヲ述ベ何事ヲモ欺秘セズ又何事ヲモ附加セザルコト

宣
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榎
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